<u>REMARKS</u>

This application contains claims 1-149, the status of which is as follows:

(a)   Claims 31, 33-34, 36-38, 41-43, 103, and 108-110 are as originally filed.

(b)   Claims 22-26, 28-30, 32, 35, 39-40, 95-98, 100-102, 104-107, and 111-115 have been currently amended.

(c)   Claims 1-21, 27, 44-94, 99, and 116-149 have been cancelled without prejudice. Applicant reserves the right to prosecute these claims in future applications.

No new matter has been added.

Applicant thanks Examiners Malamud and Layno for the courtesy of a personal interview with Applicant's representative, Sanford T. Colb (Reg. No. 26,856), held in the USPTO on June 17, 2008. At the interview, Mr. Colb argued the patentability of claims 104 and 111 and their dependent claims. It was agreed that amending these claims to more positively claim a control unit programmed to implement the claimed functions would provide allowable subject matter for claims 104 and 111, and their dependent claims. Amendments to the drawings to illustrate a functional relationship of the control unit were also discussed. Amendments to the claims to remove the word "distal" from the phrase "distal small intestine" were also discussed.

Amendments to Fig. 9 and to the Specification

Fig. 9 has been amended so that the signal that is relayed from the eating detection unit to the control unit is numbered 407. Furthermore, an algorithm 409 that is performed by the control unit has been added to Fig. 9. According to the algorithm, responsively to the signal received from the eating detection unit, the control unit determines whether the subject is eating.

Paragraph [0191] of the application states "**Sensors 68** may comprise, for example, one or more dedicated local sense electrodes 74, which are typically placed on or in stomach 20, and **convey electrical signals to control unit** 90 responsive to natural gastric electric activity."

With reference to the embodiment illustrated in Fig. 9, paragraph [0249] of the application states "Eating detection unit 410 detects eating using (a) one or more of the

techniques described hereinabove," which includes using sensors which convey electrical signals to the control unit, in accordance with paragraph [0191].

In addition, paragraph [0248], prior to the current amendment, stated "In an embodiment of the present invention, colonic stimulation system 400 further comprises an eating detection unit 410, which is adapted to detect eating by the patient. Control unit 404 is configured to drive electrodes 406 responsive to the detection of eating."

The above sections of the specification, when taken in combination, provide a control unit which drives electrodes to provide a signal, responsively to electrical signals which are conveyed to the control unit by an eating detection unit. Accordingly, the amendments to Fig. 9 do not constitute new matter.

Parallel amendments to the amendments to Fig. 9 have been made to paragraph [0248] of the specification. The amendments to the specification do not constitute new matter.

Amendments to the Claims

Claims 32 and 39 have been amended to incorporate the limitations of claim 21 from which they depended.

Claims 22-26, 28-30, and 35 have been amended to depend from claim 39, instead of depending from claim 21, which has been cancelled. Further amendments have been made to some of these claims, to enhance the clarity of the claims.

Claims 104 and 111 have been amended to incorporate the limitations of claim 94, from which they depended. In addition, these claims have been amended to recite a detection unit which detects an occurrence, and which generates a detection unit signal in response thereto, and a control unit adapted to apply (claim 111), or increase the strength of (claim 104), a treatment signal in response to receiving the detection unit signal. These amendments find support in Fig. 9 and the accompanying description, Fig.9 showing an eating detection unit which generates a detection unit signal and a separate control unit which drives electrodes responsively to the detection unit signal.

Applicant believes that the amendments and remarks presented, with respect to claims 104 and 111, serve to provide a control unit programmed to implement the

claimed functions. These amendments are in accordance with the recommendations by the Examiner for putting claims 104 and 111 in order for allowance.

Claims 95-98, 100-102, and 107 have been amended to depend from claim 111, instead of depending from claim 94, which has been cancelled. Further amendments have been made to some of these claims, to enhance the clarity of the claims.

Claim rejections under 35 U.S.C. 102 and 35 U.S.C. 103

Claims 21-22, 24, 26-28, 30-31, and 94-111 were rejected under 35 U.S.C. 102(b) as being anticipated by Rocca et al.

Claims 23, 25, and 35-38 were rejected under 35 U.S.C. 103(a) as being unpatentable over Rocca et al.

Applicant notes that although it was stated on Page 1 of the Office Action that claim 29 was rejected, the Examiner provided no grounds for the rejection of claim 29. In addition, although it was stated on Page 3 of the Office Action that claims 94-115 were rejected under 35 U.S.C. 102(b) as being anticipated by Rocca et al., the Examiner did not provide arguments for the rejection of claims 112-115.

The Examiner deemed claims 32 and 39 and their dependent claims (33-34 and 40-43) to be allowable, but the claims were objected to as being dependent upon rejected base claims. Claims 32 and 39 are currently amended to incorporate the limitations of the cancelled claims from which they depended. Claims 22-26, 28-31, 35-38, and 40-43, as currently pending, depend, either directly or indirectly, from claim 39. Claims 33-34 depend from claim 32. Therefore, Applicant submits that claims 22-26, and 28-43, as currently amended, are allowable.

Claims 104-111 have been amended to overcome the rejections under 35 U.S.C. 102(b). Claims 104 and 111 are generally parallel apparatus claims to allowed method claims 32 and 39. Claims 104-111 were rejected by the Examiner as being anticipated by Rocca et al., since the functional language and introductory statement of intended use were not considered by the Examiner to impart any further structural limitation over the prior art. It was agreed with the Examiner in the interview, dated June 17, 2008, that amending these claims to more positively claim a control unit programmed to implement the claimed functions would provide allowable subject matter for claims 104 and 111, and their dependent claims. Applicant submits that claims 104 and 111
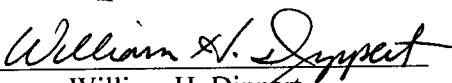
have been amended to more positively claim a control unit programmed to implement the claimed functions. Claims 95-98, 100-103, 107-110, and 112-115, as currently pending, depend, directly or indirectly, from claim 111. Claims 105-106 depend from claim 104. Therefore, Applicant submits that claims 95-98, and 100-115 constitute allowable subject matter and are in condition for allowance.

While not necessarily agreeing with the rejections of the remaining rejected claims, Applicant has cancelled the remaining rejected claims to bring about a speedy issuance of a patent including the claims that were found allowable (32-34 and 39-43), claims that are dependent from the claims that were found allowable (22-26, 28-31, and 35-38), and the parallel apparatus claims (95-98 and 100-115). Applicant reserves the right to prosecute some or all of the cancelled claims in a daughter application, and to present arguments for the patentability of these claims in the daughter application.

Applicant believes the amendments and remarks presented hereinabove to be fully responsive to all of the grounds of rejection raised by the Examiner. In view of these amendments and remarks, Applicant respectfully submits that all of the claims in the present application are now in order for allowance. Notice to this effect is respectfully requested.

Respectfully submitted,

July 21, 2008

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